

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
HILL COUNTRY BAKERY, LLC,

Plaintiff,

ORDER

-against-

CV 11-751 (JFB) (ETB)

I.J. WHITE SYSTEMS,

Defendant.
-----X

For the reasons stated, the parties shall comply with the rulings stated on the record at the transcribed proceedings held on October 19, 2012 at 3:00 p.m.:

1. Defendant's request for an inspection of plaintiff's plant in San Antonio, Texas is granted. Defendant's inspection team shall consist of one to two experts in addition to counsel. The inspection shall be done at an agreed time and date on or before December 14, 2012 and shall consist of in-operation observation not to exceed eight hours, and four hours when the machinery is non-operative.
2. Defendant's request for the recipe of the plaintiff's products used to test the defendant's machinery is granted to the extent that plaintiff shall provide defendant with the actual product samples in addition to a list of ingredients for testing by defendant's experts. In all other respects defendant's request for the recipe is denied without prejudice to renewal in the event that defendant's testing is inadequate. (It is noted that the actual products used to test defendant's machinery have been discontinued).
3. The court modified plaintiff's interrogatories one and two to delete the terminology "Defendant contends" and defendant shall comply with this demand within fourteen (14) days. If defendant possesses no such documents an affidavit attesting to the diligence of the search for same and the results of that search shall be provided by a responsible person or a person with actual knowledge employed by defendant.
4. Based on the affidavit provided by David Page, Esq., general counsel, the plaintiff's motion to compel is denied based on the privileges asserted within the privilege log. This denial is with leave to renew in the event that further discovery warrants a renewal of the application. Plaintiff may renew as to privilege log by letter motion specifically addressing the issues relative to these documents.
5. Discovery is extended to March 29, 2013.

6. A status conference will be held on November 16, 2012 at 2:00 p.m. by telephone. Plaintiff's counsel is directed to initiate the conference call and have all parties on the line before connecting the court (631-712-5710). The call must be placed through the teleconference operator provided by your long-distance service. All counsel must participate.

SO ORDERED:

Dated: Central Islip, New York
October 22, 2012

/s/ E. Thomas Boyle
E. THOMAS BOYLE
United States Magistrate Judge